

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF OKLAHOMA

JAMES EZELL III 4131-SSN.
1974-D.O.B.
Plaintiff

V.

Case No. CIV 19-302 JHP

DAMON HININGER CEO OF CORE CIVIC
WARDEN JAMES YATES OF DAVIS CORR.
FACILITY DEPUTY WARDEN GENTRY, D.W.
PEREZ, GRIE. COORD. MS TERRY UNDER-
WOOD, LAW LIBRARY SUPERVISOR, JESSICA
PATTERSON, Echo Maximum Unit Y/M Ade
C/M PFAFF, MS Hoover, OKLAHOMA DEPARTMENT
OF CORRECTION, DIRECTOR SCOTT CROW
DESIGNEE MARK KNUTSON, GENERAL
COUNSEL DAVID CINLOTTA; JAMES CRABTREE
CORRECTIONAL CENTER, WARDEN JASON BRYANT
CAPTAIN R. HODGSON, L.T. AUSTIN PARKS
% WALKER and Disciplinary Officer Capt.
JAMES NALL, JOHN DOES 1-8 JANE DOES 1-4 et. al.

FILED

SEP - 9 2019

PATRICK KEANEY
Clerk, U.S. District Court

By _____
Deputy Clerk

PRD SE PRISONER CIVIL
RIGHTS COMPLAINT-1983

COMES NOW Plaintiff pursuant to Fed. R. CIV. P. 10(a), and the following pursuant to 42 U.S.C. § 1997e, prisoner must exhaust available administrative remedies before initiating under 42 U.S.C. § 1983 or any other Federal law. With respects to 42 U.S.C. 1997e(a) as well as Federal Rule of Civil Procedures 5.2 and local Civil Rule 5.3 privacy and security concerns.

NOTE: Paper used Facility D.C.F. DP.030115 type paper once grievance filed Echo Unit team Ade, PFAFF, started denying copy paper, copy of legal document a retaliatory behavior...

I. JURISDICTION

Indicate below the federal legal basis for your claim, if known.

- ☒ 42 U.S.C. § 1983 (state, county, or municipal defendants)
- ☐ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)

II. PLAINTIFF INFORMATION

<u>JAMES EZELL III</u>		<u>JAMES R. EZELL</u>
Full name		Aliases
<u>DOC # 237370</u>		
Prisoner ID #		
<u>DAVIS CORRECTIONAL FACILITY</u>		
Place of Detention/Incarnation		
<u>6888 EAST 133rd Rd</u>		
Institutional Address		
<u>Holdenville</u>	<u>OK</u>	<u>74848</u>
City	State	Zip Code

III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner

AMENDED COMPLAINT

IV. DEFENDANT(S) INFORMATION

Defendant 1: Damon Hininger

CEO OF CORE CIVIL

(Address provided by D.C.F L.L) 10 Burton Hills Blvd. and (pr) 5561 Virginia way Suite 110
Nashville TN. 37215 Brentwood, TN. 37027

Defendant 2: JAMES YATES

WARDEN

DAVIS CORRECTIONAL FACILITY D.C.F 6888 E 133rd Rd
Holdenville OK. 74848

Defendant 3: Gentry

DEPUTY WARDEN

DAVIS CORRECTIONAL FACILITY D.C.F 6888 E. 133rd Rd
Holdenville OK. 74848

Defendant 4: PEREZ

DEPUTY WARDEN

DAVIS CORRECTIONAL FACILITY D.C.F 6888 E. 133rd Rd
Holdenville OK. 74848

Defendant 5: TERRY UNDERWOOD

GRIEVANCE COORDINATOR

DAVIS CORRECTIONAL FACILITY D.C.F 6888 E. 133rd Rd.
Holdenville OK. 74848

Defendant 6: JESSICA PATTERSON

LAW LIBRARY SUPERVISOR

DAVIS CORRECTIONAL FACILITY D.C.F 6888 E. 133rd Rd
Holdenville OK 74848

NOTE: Grievances exhausted by # (R.A. ARA) see attachment pg. cont. 4)
U/M Ade threaten plaintiff with misconduct, 9m Paff threaten plaintiff with misconduct with was
related to Law Library issue/grievance this affects plaintiff transfer Deputy warden Perez threaten
plaintiff with misconduct on 8-22-19 or 8-21-19 doorside, on 8-30-19 S. Key listed John DOE called plaintiff "Bitch" 3

Defendant 7: Tiffany Ade

Echo Unit Manager

DAVIS CORRECTIONAL FACILITY D.C.F 6888 E 133rd Rd

Holdenville OK. 74848

Defendant 8: S. Pfaff

Case Manager

DAVIS CORRECTIONAL FACILITY D.C.F 6888 E 133rd Rd

Holdenville OK. 74848

Defendant 9:

Carl Hanner
Echo Clerk
DAVIS CORRECTIONAL FACILITY
Holdenville OK 74848

Defendant 10: O.D.O.C. Director Scott Crow

Interim Director

3400 Martin Luther King Ave P.O. Box 11400

OKLAHOMA City OK. 73136

Defendant 10: O.D.O.C Mark Knutson

Designee

3400 Martin Luther King Ave P.O. Box 11400

OKLAHOMA City OK. 73136

Defendant 12: DAID CINCOTTA

O.D.O.C GENERAL COUNSEL

3400 Martin Luther King Ave. P.O. Box 11400

OKLAHOMA City OK 73136

Defendant 13: JASON BRYANT

WARDEN

JOSEPH HARP CORRECTIONAL CENTER

P.O. BOX 548 - LEXINGTON OK. 73051-0548

Defendant 14: B. HODGSON

CAPTAIN

JAMES CRABTREE CORRECTIONAL CENTER

216 N. Murray St. Helena OK. 73141

Defendant ¹⁵ 14: Austin Parks

L.T.

JAMES CRABTREE CORRECTIONAL CENTER
216 N. Murray St. Helena OK. 73741

Defendant 16: WALKER

CORRECTIONAL OFFICERS

JAMES CRABTREE CORRECTIONAL CENTER
216 N. Murray St. Helena OK. 73741

Defendant ¹⁷ 17: JAMES NAIL

CAPTAIN

JAMES CRABTREE CORRECTIONAL CENTER
216 N. Murray St. Helena OK. 73741

STATEMENT OF FACTS

Plaintiff would now state under the penalty of perjury under the laws of the United States of America that the foregoing listed grievances by #s have been exhausted at the Reviewing Authority level at DAVIS CORRECTIONAL FACILITY and at the Administrative Reviewing Authority as well as JAMES CRABTREE CORRECTIONAL CENTER levels, true and correct 28 U.S.C. § 1746. 18 U.S.C. § 1621.

1. J.L.C.C-18-b0 6-5-18 amended 7-26-18, (R.A.) exhausted 8-22-18 (ARA)
2. D.C.F-00104 (R.A.) 3-18-19, 4-9-19, appealed (ARA) 4-26-19 exhausted 5-21-19
3. D.C.F-00170 (R.A.) 4-19-19, appealed (ARA) amended 6-12-19 exhausted 7-8-19
4. D.C.F-00236 (R.A.) 6-6-19 appealed (ARA) 7-6-19 exhausted 8-2-19
5. D.C.F-00144 (R.A.) 3-29-19 relief is partially granted exhaustion pending prevention of plaintiff exhaustion by D.C.F, ARA-D.O.C.

Plaintiff would further provide evidence of continue retaliation by defendants discrimination by further defendants destroy attachment to grievances by Grievance Coordinator at R.A-D.C.F appealed to ARA and continue threats, retaliatory behavior Affidavit other offender willing to provide proof of discrimination.

CONT 4

V. STATEMENT OF CLAIMS

A. Claim 1

Date(s) of occurrence: 2-25-19, re-submitted 3-19-19, 4-26-19 ARA

Place(s) of occurrence: DAVIS CORRECTIONAL Facility Echo Maximum Unit

State which of your federal constitutional or federal statutory right have been violated: Sixth and Fourteenth Amendment Rights

Briefly state the FACTS that support your case

FACTS: D.C.F. Warden Yates had assigned an offender to Echo Maximum as Law Clerk unsupervised/without supervision by Law Library Supervisor, D.D.O.C General Counsel David Cincotta has also approved that Law Clerk for Echo the D.C.F Law Library on Echo Maximum Unit was inadequate and is because Law Library Supervisor Ms. Patterson refused to contract General Counsel Office DAVID CINCOTTA upon plaintiff request per DP-090184, DP-030115, D.D.O.C Designee continue to cover-up violation of offenders denial of R.A. 00104-G

B. Claim 2

Date(s) of occurrence: 3-29-19, 4-03-19 and 7-8-2019 April 19, 2019

Place(s) of occurrence: DAVIS CORRECTIONAL Facility Echo Maximum Unit

State which of your federal constitutional or federal statutory right have been violated: First, Sixth Eighth and Fourteenth Amendment Rights

Briefly state the FACTS that support your case

FACTS: Warden Yates deliberately refused to correct Echo Maximum Unit deprivation of Access to Court without retaliation or threats of retaliation from G.C. Terry Underwood, Deputy Warden Perez [Unit Manager Ade and Law Library Supervisor Ms. Patterson], Both U/M Ade threaten plaintiff with misconduct based on grievance issue 00170-G exhausted ~~John Doe~~ refused to feed plaintiff on in Law Library in retaliation with Law Clerk video footages 00236-G continue over to claim 3)

C. Claim 3

Date(s) of occurrence: 3-19-19 exhausted

Place(s) of occurrence: DAVIS CORRECTIONAL FACILITY Echo Max.

Federal Constitutional or federal Statutory rights have been violated:
(First Sixth Eighth and Fourteenth)

Briefly state FACTS:

Deputy Warden Gentry violated plaintiff Eighth being responsible for policy's and procedures deliberately violated plaintiff First and Eighth by allowing plaintiff to be denied lunch and dinner over access to court, Echo Unit Team 9m Pfaff and 4m Ade allowed the assigned Law Library clerk to retaliate by denied access to computer Law Library Supervisor Patterson 9m Adkins. Grievance Coordinator Terry Underwood continued untrained decision in offenders/ plaintiff grievance process at R.A. level, finally Ms Underwood destroy attachments to grievances since the most recently filed grievance Deputy Warden Perez has made threats misconduct surrounding grievances filed on Law Library and G.C.,

D. Claim 4

Date(s) of occurrence: Aug. 28, 2019, Aug. 29, 2019 Aug. 30, 2019

Place(s) of occurrence: DAVIS CORRECTIONAL FACILITY

Federal Constitutional or federal Statutory rights have been violated:

Briefly state FACTS: (First and Fourteenth violated)

Plaintiff has been discriminated on, threaten with misconduct by 9m Pfaff, 4m Ade D.W. Perez, plaintiff claim 4 is not exhausted the fact that the plaintiff received a misconduct as it relates to Echo Unit Team Law Library Cage on Aug. 29, 2019 signed by Ade support retaliation, and further discrimination the fact the disciplinary officer call me a Bitch at my door Aug. 30, 2019 and state you will receive another misconduct for statement made A John Doe for now misconduct makes my condition worse. another John Doe if plaintiff want to transfer discriminative discipline would deter him making it unavailable) Further; other offenders affidavit ready.. Cont. page 7)

pg 6 - cont. 6

E. Claim 5

Date(s) of occurrence: August. 27, 2019

Place(s) of occurrence: D.C.F/MAX Echo Unit

State which of your federal constitutional or federal statutory rights have been violated: First Amendment Rights were violated

Briefly state the FACTS:

On August. 7, Warden Yates issued a grievance restriction on plaintiff on August. 13, 2019 Grievance Coordinator Terry Underwood provided 3 grievances to plaintiff on August. 14, 2019 plaintiff appealed those 2 of the 3 grievances to Administrative Reviewing Authority no grievance restriction was applied nor did plaintiff receive any Notice of any restriction per OP-090124 until August. 15, 2019 the D.C.F. mailroom provided the letter from Yates.

ON AUGUST. 27, 2019 Echo Unit Notary Ms. Hoover was Directed by Grievance Coordinator Terry Underwood not to Notary plaintiff grievance restriction per Warden Yates letter and OP-090124.

F. Claim 6

Date(s) of occurrence: May. 3, 2018

Place(s) of occurrence: JAMES CRABTREE CORRECTIONAL CENTER, J.C.C.C

First and Fourteenth Amendment Rights were violated Eighth

Briefly state the FACTS:

J.C.C.C. CAPTAIN R. HODGSON directed L.T. Austin Parks and % Walker to grab bend plaintiff right arm handcuff from inside of a cell to the outside handle of the door use of excessive force injuring plaintiff wrist Illegally transferred plaintiff to D.C.F/Maximum Security on May. 3, 2018 in reference to J.C.C.C.-18-60 grievances plaintiff was subject to cruel and unusual punishment being handcuff to that door handle and stripie naked.

VI. RELIEF REQUESTED

Briefly state what you want the court to do for you.

Plaintiff must first request the court to grant a preliminary injunction to deter defendants from further threats and or retaliatory behavior, discrimination on plaintiff; In addition preliminary injunction to protect offenders that are willing to provide affidavit in support of facts of retaliatory behavior and Discrimination plaintiff have suffered; and the D.C.F staff members in the middle of this retaliatory actions, threats and discrimination.

James the plaintiff is seeking legal relief for retaliation discrimination for his access to court and Grievances filed wherein defendants either encourage and or deliberately direct~~as~~ reckless behavior disregard of the risk to James and thereafter abuse for attempting to petition the government..

VII. PRISONER'S LITIGATION HISTORY 28 U.S.C § 1915(a)

Yes I have brought lawsuits in Federal court as prisoner
number of lawsuits 3 Federal Courts.

- 1) U.S. DIST. CT. OF WESTERN DIST. OF OKLA. CIV-02-413-EA(C) EZELL V. LODGE 42 U.S.C § 1983 DISMISSED DID NOT APPEAL. 2) U.S. DIST. CT. OF NORTHERN DIST. OF OKLA. 11-CV-400-TCK-TLM EZELL V. JEFF GATWOOD, SHAWN HICKEY 42 U.S.C. § 1983 DISMISSED DID NOT APPEAL. 3) U.S. DIST. CT. OF EASTERN DIST. OF OKLA 6:12-CV-00133-FHS-SPS EZELL V. WILKINSON 42 U.S.C. § 1983 Appeal No. 13-7074 MOTION To Voluntary dismiss that was granted attached.

NOTE. on 8-27-19 Ms. Hoover denied Notary for D.C.F Warden Yates letter grievance restriction per 09-090124 affidavit required Notary Ms. Hoover stated Terry Underwood told her not to Notary affidavit this made grievance process unavailable misconduct on 8-30-19. 7 supports Retaliation further by (staff members) Ms. Hoover also state you filed a lawsuit on (me)

Appeal! U.S. DIST. COURT OF EASTERN DIST. OF OKLAHOMA 6:12-CV-00133-
FHS-SPS EZELL V. WILKINSON 42 USC § 1983 DISMISSED, Appealed,
then motioned to voluntary dismiss that dismissal was granted
U.S. Court of Appeal For the Tenth Circuit No. 13-7074

VIII. PLAINTIFF'S DECLARATIONS:

I declare under penalty of perjury that the foregoing is true and correct. To the best of my knowledge, information, and belief, this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11 of the Federal Rules of Civil Procedure.

I agree to provide the Court Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Court Clerk's Office may result in the dismissal of my case.

James Ezell III
 Plaintiff's Signature

9-4-19
 Date

Certificate
 I hereby certify that a true copy of this document was mailed
 to Court Clerk Patrick Kearney on above date as addressed.

I further declare under penalty of perjury that I placed this complaint in the prison's legal mail system, with the correct postage attached, on the 4 day of Sept., 20 19.

James Ezell III
 Plaintiff's Signature

9-4-19
 Date

NOTE. Further in 6:12-CV-00133-FHS-SPS plaintiff alleged Mr. Islmes had call him
a nigger by affidavit no long ago he was fired for use of that word again. Now D.C.F
employee are using words like Bitch pussy people and Raks for filing grievances
which would deter offenders from filing grievances and affidavit could possible get
them killed Warden Yates is a convicted felony whom was the Deputy Warden in Case No.

FILED

United States Court of App
Tenth Circuit

UNITED STATES COURT OF APPE
FOR THE TENTH CIRCUIT

December 3, 2013

Elisabeth A. Shumaker
Clerk of Court

JAMES R. EZELL,

Plaintiff - Appellant,

v.

TIM WILKINSON, Warden; REBECCA
ADAMS; MR. BAIRD, Fox AIF Unit
Manager; WILLIAM BARLOW; CARLA
HOOVER; DIANA JONES; STACY
YOUNG; DEBBIE MORTON; JAMES
BAILEY; MR. ISLNES,

Defendants - Appellees.

No. 13-7074

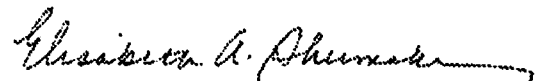
(D.C. No. 6:12-CV-00133-FHS-SPS)

ORDER

Appellant's response to the court's November 13, 2013 show cause order contains a motion to voluntarily dismiss case. The motion for voluntary dismissal is granted. See 10th Cir. R. 27.3(A)(9) and 10th Cir. R. 42.1.

This order shall stand as and for the mandate of the court.

Entered for the Court



ELISABETH A. SHUMAKER, Clerk